

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	NO. CR FMS
)	
v.)	APPLICATION FOR PERMISSION
)	<u>TO ENTER PLEA OF GUILTY</u>
)	
)	
)	
Defendant.)	
_____)	

Under penalty of perjury, I declare that the following statements have been read and understood by me, and that each is true and correct:

(1) My full name is:_____.

I am _____ years of age. I have gone to school up to and including _____.

I request that all proceedings against me be in my true name.

(2) My lawyer is:_____.

(3) I received a copy of the Indictment* before being called upon to plead. I have read the indictment and discussed it with my lawyer. I fully understand every charge made against me.

(4) I have told my lawyer all the facts and circumstances known to me about the charges made against me in the indictment. I believe that my lawyer is fully informed on all such matters.

*"Indictment" also means "Information" where applicable.

(5) I know that before my plea can be accepted the Court must be satisfied that I understood the nature of the charges against me and there is a factual basis for a plea of "GUILTY." I represent to the Court that I understand the nature of these charges and I did the acts charged in Counts_____

(6) My lawyer has counseled and advised me on the nature of each charge, on all lesser included charges, and on all possible defenses that I might have in this case. My lawyer has given me the time and attention needed to give my case full consideration. I have no complaint of any kind about the nature or quality of my lawyer's services to or representation of me.

(7) I know that I may plead "NOT GUILTY" to any offense charges against me, and that, if I plead "NOT GUILTY" I will have the following rights: (a) a speedy and public trial by jury; (b) the ability to see and hear all witnesses called to testify against me; (c) the power and process of the Court to compel the production of evidence, including the attendance of any witnesses in my favor; (d) the assistance of a lawyer at all stages of the proceedings and if I cannot afford one, to have the Court appoint one to represent me without cost to me or based upon my ability to pay; (e) the opportunity to take the witness stand, if I choose to do so, but if I do not take the witness stand, no inference of guilt may be drawn from such failure; (f) not to incriminate myself; (g) an appeal from an adverse judgment.

(8) I know that if I plead "GUILTY", there will be no trial either before a Court or jury, and the Court may impose the same punishment as if I had pleaded "NOT GUILTY", stood trial and been convicted by a jury.

(9) My lawyer informed me that the maximum possible punishment which the law provided for the offense charged in Count _____, is:

- (a) _____ years imprisonment; and
 - (b) a fine in the largest of:
 - (1) \$ _____
 - (2) double the gross pecuniary gain I derived from the offense;
 - (3) double the gross pecuniary loss caused by the offense to another person or persons; or
 - (4) \$250,000 if a felony or \$25,000 if a misdemeanor;
 - (c) a term of supervised release of _____ years; and
 - (d) a special assessment fee of \$ _____.
- (Strike if inapplicable)

I understood that if a supervised release term is mentioned above, it refers to a term which may be for any period, but not less than the period stated; if the terms and conditions of a supervised release term are violated, the original term of imprisonment shall be increased by the period of the supervised release term and the resulting new term of imprisonment shall not be diminished by the time which was spent on supervised release; a person whose supervised release term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment; and that a supervised release term is in addition to, and not in place of, any other punishment provided by law.

(10) I understand that I may be required to make restitution of any loss I have caused any

victim of my offenses, and that I will be assessed \$100.00 for each felony and \$50.00 for each misdemeanor of which I shall be convicted.

(11) I understand that under provisions of certain criminal statutes, certain of my property may be forfeited to the United States. I have been advised by my lawyer whether, and to what extent, my property may be subject to forfeiture.

(12) If I am on probation, parole, or supervised release in this or any other Court, I know that by pleading guilty here, my probation, parole or supervised release term may be revoked and I may be required to serve time in that case, which may be consecutive, that is, in addition, to any sentence imposed upon me in this case.

(13) I declare that no officer or agent of any branch of government (Federal, State or local) has promised or suggested that I will receive a lighter sentence, or probation, or any other form of leniency if I plead "GUILTY", except as follows:

(Insert here any promises or concessions made to the defendant or to defendant's attorney.)

If anyone else made such a promise or suggestion, except as noted in the previous sentence, I know that it was entirely without authority or effect.

(14) I know that the sentence I will receive is solely a matter within the control of the Judge. I hope to receive leniency, but I am prepared to accept any punishment permitted by law which the Court sees fit to impose. However, I respectfully request the Court to consider, in mitigation of punishment, that I have voluntarily entered a plea of "GUILTY".

(15) I consent to an immediate presentence investigation by the probation officers of this Court, and I further consent to a review of my presentence report by the Judge.

(16) If, for any reason, my intended plea of "GUILTY" shall be set aside, "NOT GUILTY" plea re-entered, and the matter set for trial, I understand and agree that any subsequent trial, whether with or without a jury, may be conducted by any judge, even though such judge may have reviewed my presentence report, and I waive any right I may have to object.

(17) I am satisfied that my lawyer has done all that a lawyer could do to counsel and assist me, and I am satisfied with the advice and help my lawyer has given me.

(18) I do not believe that I am innocent; I wish to plead "GUILTY" because I am guilty, and I know it.

(19) My mind is clear. I am not under the influence of alcohol or drugs and I am not under a doctor's care. The only drugs, medicines or pills that I have taken within the past seven days are: _____

(If none, so state.)

(20) My decision to plead “GUILTY” has not been forced or coerced by any threats or compulsion, direct or indirect, to or upon me or any other person.

(21) I OFFER MY PLEA OF “GUILTY” FREELY AND VOLUNTARILY AND OF MY OWN ACCORD AND WITH FULL UNDERSTANDING OF ALL THE MATTERS SET FORTH IN THE INDICTMENT AND IN THIS APPLICATION. IN OFFERING MY PLEA OF “GUILTY”, I FREELY AND VOLUNTARILY WAIVE (GIVE UP) THE CONSTITUTIONAL RIGHTS GUARANTEED TO ME AS STATED IN PARAGRAPH (7) ABOVE.

(22) I request the Court to enter my plea or pleas of “GUILTY”.

Signed and sworn to by me in open court in the presence of my attorney, this
_____ day of _____, 20_____.

Defendant

CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counselor for the defendant, _____
hereby certifies:

(1) I have read and fully explained to the defendant and believe he/she fully understands the allegations contained in the indictment or information of this case, the defenses he/she may have to each and every of the allegations and the consequences of a plea of "GUILTY".

(2) I believe the defendant fully understands the Constitutional rights he/she is waiving, and that by entering a plea of "GUILTY" he/she is waiving each and everyone of those rights.

(3) To the best of my knowledge and belief, the statements, representations and declarations made by the defendant in the foregoing application are, in all respects, accurate and true.

(4) Nothing has come to my attention which would cause me to believe that the defendant lacks the ability to understand anything contained in the attached application or that at the time of entering his/her plea he/she is under the influence of drugs or alcohol.

(5) The plea of "GUILTY" offered by the defendant accords with my understanding of the facts he/she related to me and is consistent with my advice to the defendant.

(6) It is my opinion that the plea of "GUILTY" offered by the defendant is voluntarily and knowingly. I recommend that the Court accept the plea of "GUILTY".

Signed by me in open court in the presence of the above-named defendant after a full discussion of the contents of this certificate with the defendant this _____ day of _____, 20____.

Attorney of the defendant

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)		
)	No. CR-	FMS
Plaintiff,)		
)		
-v-)	ORDER ACCEPTING PLEA	
)		
)		
)		
Defendant.)		
_____)		

I FIND THAT:

- (1) The defendant enters this plea of guilty freely and voluntarily, and not out of ignorance, inadvertence, fear or coercion;
- (2) The defendant understands and knowingly, freely and voluntarily waives his/her Constitutional rights;
- (3) The defendant freely and voluntarily executed his/her Application for Permission to Enter a Plea of Guilty, and fully understands its contents;
- (4) The defendant has admitted the essential elements of the crime charged.

IT IS THEREFORE ORDERED that the defendant's plea of "GUILTY" be accepted and entered as prayed for in this Application for Permission to Enter a Plea of Guilty and as recommended in the certificate signed by his/her attorney.

Done in open Court this _____ day of _____, 20__.

FERN M. SMITH
UNITED STATES DISTRICT JUDGE